



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 5, 1994

Mr. Richard M. Abernathy
Abernathy, Roeder, Robertson & Joplin
P.O. Box 1210
McKinney, Texas 75069-1210

OR94-433

Dear Mr. Abernathy:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 24974.

The Plano Independent School District (the "school district"), which you represent, has received a request for the personnel file of a certain school district employee. The requestor seeks "a full and complete copy of the resume of Lindsey Gunn, as was used in an application for employment with Plano ISD, and all additional employee papers as would be in his file." The requestor also seeks "a full and complete copy of all contracts of employment between Plano ISD and Lindsey Gunn." The district has disclosed all documents requested except the grades on Mr. Gunn's transcript and his personnel evaluations. You have submitted the transcripts and evaluations to us for review and claim that section 552.102(b) permits you to withhold the grades on the transcript from disclosure, and that sections 552.101 and 552.111 of the Government Code permit you to withhold the personnel evaluations from required public disclosure.¹

Section 552.102(b) protects from required public disclosure transcripts from institutions of higher education in the personnel files of professional public school employees. Section 552.102(b) expressly excludes from this protection information on a

¹Although you do not expressly claim section 552.111, you invoke several prior open records decisions, e.g., Open Records Decision Nos. 482; 466; 464 (1987); 110; 106; 103 (1975), in which this office addressed the applicability of section 552.111 (formerly V.T.C.S. article 6252-17a, § 3(a)(11)) to personnel evaluations, as additional authority to withhold Mr. Gunn's personnel evaluations.

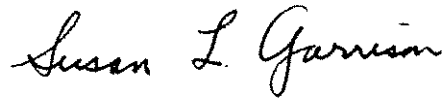
transcript detailing the degree obtained and the curriculum pursued. See Open Records Decision No. 526 (1989). Accordingly, we conclude that the school district must withhold the submitted transcripts under section 552.102(b) of the Government Code, except to the extent that they detail the degree obtained and the curriculum pursued. For the convenience of the school district, we have marked the information that the school district must withhold under section 552.102(b).

You seek to exclude personnel evaluations from disclosure pursuant to section 552.101 of the Government Code, which excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," in conjunction with common-law privacy. Section 552.101 protects information only if its release would cause an invasion of privacy under the test articulated by the Texas Supreme Court in *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Under the *Industrial Foundation* case, information may be withheld on common-law privacy grounds only if it is highly intimate or embarrassing and is of no legitimate concern to the public. Generally, the public has a legitimate interest in the job qualifications and performance of public employees. See Open Records Decision No. 470 (1987) at 5. In the past, this office has concluded that the doctrine of common-law privacy does not protect an applicant's or employee's educational training; names and addresses of former employers; dates of employment, kind of work, salary, and reasons for leaving; names, occupations, addresses and phone numbers of character references; job performance or ability; birth dates; height; weight; marital status; and social security numbers. See generally Open Records Decision No. 455 (1987) at 8. We have examined the evaluations submitted to us for review. We conclude that it does not contain any information that is intimate or embarrassing. Accordingly, the school district may not withhold the evaluations under section 552.101 of the Government Code.

You also claim that section 552.111 of the Government Code excepts the evaluations from required public disclosure. Section 552.111 excepts an "interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the section 552.111 exception and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body at issue. In addition, this office held that an agency's policymaking functions do not encompass internal administrative or personnel matters, because disclosure of information relating to such matters will not inhibit free discussion among agency personnel as to policy issues. *Id.* at 5-6. The requested information relates to an internal administrative and personnel matter, *i.e.*, routine evaluations of an employee. Accordingly, we conclude that section 552.111 does not except the evaluations from required public disclosure. They must be released in their entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,

A handwritten signature in cursive script that reads "Susan L. Garrison".

Susan L. Garrison
Assistant Attorney General
Open Government Section

SLG/GCK/rho

Ref.: ID# 24974

Enclosures: Submitted documents

cc: Ms. Sonja Hammar
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(w/o enclosures)